

Senate File 175 - Enrolled

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SENATE FILE 175

AN ACT

RELATING TO THE DISPOSITION OF SEIZED PROPERTY IN A CRIMINAL PROCEEDING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 809.5, subsection 1, Code 2007, is amended to read as follows:

1. Seized property which is no longer required as evidence or for use in an investigation ~~may shall~~ be returned to the owner ~~without the requirement of a hearing~~, provided that the person's possession of the property is not prohibited by law and there is no forfeiture claim filed on behalf of the state.

The seizing agency ~~or prosecuting attorney~~ shall send notice by ~~regular restricted certified mail, if the value of the~~

~~property is less than fifty dollars, or certified mail, if the value of the property is equal to or greater than fifty~~

~~dollars, return receipt requested, to the last known address~~

~~of any person having an ownership or possessory right in the~~

~~property stating that the property is released and must be~~

~~claimed within thirty days from the date of receipt of the~~

~~notice. Refusal of restricted certified mail, return receipt~~

~~requested, shall be construed as receipt of the notice. Such~~

~~notice shall state that if no written claim for the property~~

~~is made upon filed with the seizing agency within thirty days~~

~~after the mailing of from the date of receipt of the notice,~~

~~the property shall be deemed abandoned and disposed of~~

~~accordingly. In the event that there is more than one party~~

~~who may assert a right to possession or ownership of the~~

~~property, the The seizing agency shall not release the~~

~~property to any party until the expiration of the date for~~

~~filing claims unless all other claimants execute a written~~

~~waiver. In the event that there is more than one claim filed~~

~~for the return of property under this section, at the~~

~~expiration of the period for filing claims the seizing agency~~

~~or prosecuting attorney shall file a copy of all such claims~~

~~with the clerk of court and the clerk shall proceed as if such~~

~~claims were filed by the parties under section 809.3. In the~~

~~event that no owner can be located or no claim is filed under~~

~~this section for property having a value of less than five~~

~~hundred dollars, the property shall be deemed abandoned and~~

~~the seizing agency shall become the owner of such property and~~

~~may dispose of it in any reasonable manner. For unclaimed~~

~~property having a value equal to or greater than five hundred~~

~~dollars, forfeiture proceedings shall be initiated pursuant to~~

~~the provisions of chapter 809A. If the court does not order~~

~~the property forfeited to the state in the forfeiture~~

~~proceedings pursuant to chapter 809A, the seizing agency shall~~

~~become the owner of the property and may dispose of it in any~~

~~reasonable manner. Unclaimed firearms and ammunition, if not~~

~~forfeited pursuant to chapter 809A, shall be disposed of by~~

~~the department of public safety or the department of natural~~

~~resources pursuant to section 809.21.~~

JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 175, Eighty-second General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

3 4 Approved _____, 2007
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3 8 _____
3 8 CHESTER J. CULVER
3 9 Governor